

Message Text

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ACTION ARA-14

INFO OCT-01 ISO-00 HA-05 CIAE-00 DODE-00 PM-05 H-01
INR-10 L-03 NSAE-00 NSC-05 PA-01 SP-02 SS-15
ICA-11 /073 W
-----130695 270811Z /15

R 262133Z MAY 78
FM AMEMBASSY TEGUCIGALPA
TO SECSTATE WASHDC 488
INFO AMEMBASSY GUATEMALA
AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY SAN SALVADOR

C O N F I D E N T I A L TEGUCIGALPA 2517

E.O. 11652: GDS
TAGS: PINT, SHUM, HO
SUBJ: APPEALS COURT CONFIRMS OLANCHO VERDICT

REF: (A) TEGUCIGALPA 974, (B) TEGUCIGALPA 667

1. SECOND COURT OF APPEALS HAS CONFIRMED JUTICALPA COURT DECISION (REF B) FINDING MAJOR JOSE ENRIQUE CHINCHILLA AND LT. BENJAMIN PLATA GUILTY OF OLANCHO MURDERS AND ACQUITTING OTHER ACCUSED PERSONS. THREE-MAN COURT AMENDED SOMEWHAT THE LOWER COURTS REASONING, BUT IT RESULTS IN THE SAME 15-YEAR SENTENCE FOR THE TWO MILITARY OFFICERS.

2. NOT SURPRISINGLY, THE APPEALS COURT DECISION HAS SET OFF A SERIES OF COMMENTS SIMILAR TO THOSE BROUGHT ABOUT BY THE ORIGINAL FINDING (REF A) WITH THE CHRISTIAN DEMOCRATS (PDCH) AND NATIONAL UNION OF CAMPESINOS (UNC) BEING MOST OUTSPOKENLY AGAINST THE FAILURE TO CONVICT MORE THAN TWO OF THE ACCUSED. VARIOUS STUDENT AND OTHER ORGANIZATIONS HAVE ANNOUNCED PROTEST DEMONSTRATIONS FOR JUNE 1.

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3. NEITHER THE DEFENSE OR THE PROSECUTION HAS YET ANNOUNCED WHETHER THEY WILL TAKE THE CASE TO THE NEXT STEP, THAT OF ASKING THE SUPREME COURT FOR CASATION. AS EMBASSY UNDERSTANDS IT, THIS PROCESS IS NOT AN APPEAL AS SUCH, BUT A REQUEST FOR ABROGATION OR REPEAL BASED UPON FAULTS IN THE ORIGINAL CASE. IT IS A DIFFICULT PROCEDURE AND ONE SUPREME COURT OFFICIAL TOLD EMBASSY THAT IN NINE CASES OUT OF TEN IT FAILS.

4. INFORMAL COMMENTS MADE BY THE PRESIDENT OF THE APPEALS COURT, RAUL ELVIR COLINDRES, AND A READING OF THE DECISION SHOWS THAT THE COURT BELIEVED THE TWO LEADING CIVILIANS, MEL ZELAYA AND CARLOS BAHR, WERE ACTIVELY INVOLVED IN PLANNING FOR STOPPING THE CAMPESINO HUNGER MARCH, BUT DID NOT FIND SUFFICIENT PROOF TO CONVICT THEM OF TAKING PART IN THE MURDERS. CRITICS OF THIS DECISION POINT TO THE FINDINGS OF THE ARMED FORCES INVESTIGATING COMMISSION, WHICH IMPLICATED ZELAYA AND BAHR. ELVIR NOTED, HOWEVER, THAT THE REPORT WAS SECONDARY EVIDENCE.

5. COMMENT: WHILE THIS DECISION ACQUITTING THE CIVILIANS DOES NOT SATISFY ALL POINTS OF VIEW, IT DOES FULFILL HONDURAN LEGAL REQUIREMENTS. ZELAYA AND BAHR WERE ACQUITTED BECAUSE THEIR COURT STATEMENTS (REF A), WHILE SELF-SERVING, APPEAR TO HAVE BEEN ACCEPTED IN THE ABSENCE OF CONTRADICTING EVIDENCE.
JARAMILLO

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TRIALS, COURT DECISIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 26 may 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978TEGUCI02517
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D780224-0745
Format: TEL
From: TEGUCIGALPA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780512/aaaaajsj.tel
Line Count: 79
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 79803895-c288-dd11-92da-001cc4696bcc
Office: ACTION ARA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 78 TEGUCIGALPA 974, 78 TEGUCIGALPA 667
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 13 jul 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2541844
Secure: OPEN
Status: NATIVE
Subject: APPEALS COURT CONFIRMS OLANCHO VERDICT
TAGS: PINT, SHUM, HO, (CHINCHILLA, JOSE ENRUQUE), (PLATA, BENJAMIN)
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/79803895-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014